

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

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4 In the Matter of:

5
6 SECURITIES INVESTOR PROTECTION CORP, Adv. No. 08-01789 (SMB)

7 Plaintiff,

8 v.

9 BERNARD L. MADOFF INVESTMENT SEC.,

10 Defendant.

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12
13 U.S. Bankruptcy Court

14 One Bowling Green

15 New York, NY 10004

16
17 January 12, 2017

18 10:07 AM

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20 B E F O R E :

21 HON STUART M. BERNSTEIN

22 U.S. BANKRUPTCY JUDGE

1 Hearing re: Motion for an order approving eighth allocation
2 of property to the fund of customer property and authorizing
3 eighth interim distribution to customers

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25 Transcribed by: Jamie Gallagher

1 A P P E A R A N C E S :

2 BAKER HOSTETLER LLP

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6

7 BY: DAVID SHEEHAN, ESQ.

8

9 SECURITIES INVESTOR PROTECTION CORPORATION

10 General Counsel

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14

15 BY: KEVIN BELL, ESQ.

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1 P R O C E E D I N G S

2 THE COURT: Madoff.

3 MR. SHEEHAN: Good morning, Your Honor.

4 THE COURT: Good morning.

5 MR. SHEEHAN: David Sheehan from Baker Hostetler
6 on behalf of the trustee. Your Honor, this is the return
7 date of the trustee's application for authority to
8 distribute its eighth interim distribution by the trustee in
9 the amount of \$251 million, which represents a 1.7 percent
10 distribution, which in any other case wouldn't sound like a
11 lot, but in Madoff, that represents over \$200 million.
12 Every penny being almost \$200 million.

13 Your Honor, this represents a milestone in that
14 the trustee has now accumulated 60 percent of the amount
15 that we believe was actually stolen, constituting over \$11
16 billion -- approximately \$11.6 billion has been collected.
17 And you know that most of this is being -- the distribution
18 today is predicated upon the Chase settlement which Your
19 Honor recently approved.

20 There's -- the average check here is going to be
21 around 270 some odd thousand dollars. Over 953 accounts are
22 going to be fully satisfied. I'm sorry, the average check
23 is \$263,000, I'm sorry, Your Honor. And we fully satisfy
24 actually 1,333 (indiscernible), 953 accounts are receiving a
25 distribution.

1 Your Honor, I thought today, if I could for just
2 one minute, I think sometimes we come here, we see you often
3 and we're a little bit perfunctory, but I thought I'd try to
4 breathe some of the life into this. This is, as I say, a
5 fairly large milestone. We've distributed close to \$9
6 billion, which no one when we started this case ever thought
7 it was going to happen. And that reaches not only a lot of
8 people, as we've indicated here today who have received, you
9 know, 60 percent of the money back, but in addition to that,
10 it's reached people that aren't necessarily thought of as
11 people who would get benefits from this.

12 I'm thinking specifically of the Tremont cast,
13 which Your Honor has familiarity with. As Your Honor may or
14 may not know, there has been an ongoing, if you will, class
15 action matter before Judge Griesa for a number of years. We
16 settled with Tremont, as Your Honor knows, a number of years
17 ago. We've actually paid over \$1 billion to Tremont's class
18 action. Those indirect people, those folks that invested in
19 Tremont have received a distribution of almost \$800 million
20 so far. Out of that, \$1 million we distributed to them. So
21 it's not as though it's --

22 THE COURT: You mean, you distributed it to
23 Tremont as a creditor? As a customer?

24 MR. SHEEHAN: Tremont is our customer.

25 THE COURT: Right.

1 MR. SHEEHAN: And their investors have received
2 through the SIPC proceeding over \$800 million. And will
3 receive, eventually, a billion dollars less any attorney's
4 fees or to class action. I know of no other feeder fund
5 that even comes close to it. In fact, the only other fund
6 I'm aware of is one that also was not in liquidation and
7 that was Optima (ph). But I believe that all the funds in
8 liquidation have not distributed a dime. So while it's
9 sometimes thought by others that we don't favor the
10 indirects, the system works. It works the way it's supposed
11 to. And if we were able to settle, as we try to do with all
12 of the other feeder funds, there could be distributions to
13 them as well.

14 So I just wanted to again give some --

15 THE COURT: You have to tell that to the feeder
16 funds or the feeder fund liquidators.

17 MR. SHEEHAN: Well, you know, it's really
18 unfortunate that many of them have dug their heels in. And
19 I think that as a result of some decisions, they feel as
20 though they don't have to participate here. And that's
21 really unfortunate. But in any event, I think the work done
22 by the Trustee over the last eight years has demonstrated
23 that when you prepare fully and are ready, and are ready --
24 realize we haven't tried a case (indiscernible) of \$11.6
25 billion, what does that say about the credibility of the

1 allegations brought by the trustee and the belief in those
2 defendants that they should participate.

3 Your Honor, there are no oppositions to the
4 application made here today and I'd ask that Your Honor
5 approve the allocation and the distribution order.

6 THE COURT: Mr. Bell?

7 MR. BELL: Good morning, Your Honor. Day 2,952 is
8 a joyous day.

9 THE COURT: I know you're always going to tell me
10 how long these cases --

11 MR. BELL: Well, Your Honor, I've been here since
12 day one and --

13 THE COURT: I haven't, but go ahead.

14 MR. BELL: I have and I still do believe that
15 there is a legitimate shot to get everybody back every penny
16 that -- of the 20 billion that Bernie Madoff stole. And I
17 did -- do have to say, as I said last month, that this would
18 not have happened except for the Trustee, his main counsel,
19 and the 23 other counsel who have worked diligently to make
20 this occur.

21 Mr. Sheehan's notes about Tremont are right on.
22 If all the other feeder funds had sat down at a table and
23 came to a legitimate compromise, all of those innocent,
24 indirect investors and their funds would be as joyous as
25 those who had invested in Tremont. Without more, I would

1 ask the Court to approve this so we can get the money to
2 these poor victims.

3 THE COURT: Does anybody want to be heard --

4 MR. BELL: Thank you, Your Honor.

5 THE COURT: -- in connection with the application?

6 Well, the application is obviously improved -- approved.

7 You can submit an order.

8 MR. SHEEHAN: Thank you very much, Your Honor.

9 MR. BELL: Thank you.

10 THE COURT: Okay.

11 (Whereupon these proceedings were concluded at 10:13

12 AM)

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RULINGS

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C E R T I F I C A T I O N

I, Jamie Gallagher, certify that the foregoing transcript is
a true and accurate record of the proceedings.

Jamie Gallagher

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